

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 3277 - SB 3219

March 1, 2010

SUMMARY OF BILL: Deletes the requirement that an individual be readily identifiable from the definition of photograph for purposes of unlawful photographing in violation of privacy offenses.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures - \$9,500/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures – Not Significant

Assumptions:

- Currently, it is a Class A misdemeanor for a person knowingly to photograph an individual when the individual is in a place where there is reasonable expectation of privacy, without prior consent, if the photograph would offend or embarrass an ordinary person or if it was taken for sexual arousal or gratification. The penalty is elevated to a Class E felony if the defendant disseminates or permits the dissemination of the photograph to another person.
- According to the Administrative Office of the Courts, there has been an average of two convictions for unlawful photographing in violation of privacy in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be an average of 20 per year.
- The Department of Correction (DOC) estimates one additional Class E felony admission every three years due to the increased availability of cell phones and digital cameras.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant increase in incarceration costs during this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every three years.
- According to DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86. The average post-conviction time served for a Class E felony is 1.31 years (478.48 days). The cost per offender at 1.31 years is \$28,641.81 (\$59.86 x 478.48 days). The annualized cost per year is \$9,451.80 (0.33 annual number of convictions x \$59.86 x 478.48 days).

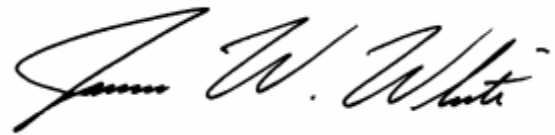
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- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- Any increase in caseloads for state trial courts can be accommodated within existing resources without an increased appropriation.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenders is negligible. There will not be a significant increase in state revenue as a result.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc